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| 7590 12/13/2007 Enrique J. Mora, Esquire Beusse, Brownlee, Bowdoin & Wolter, P.A. 390 North Orange Avenue, Suite 2500 Orlando, FL 32801 | | | EXAMINER FISHER, MICHAEL J | |
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/736,495
Filing Date: December 13, 2000
Appellant(s): SCHICK ET AL.

MAILED

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GROUP 3600

Enrique J. Mora, Esq. (reg #36,875)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/14/07 appealing from the Office action
mailed 9/14/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,330,499

Chou et al.

12-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6,10 and 20-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US PAT 6,330,499 to Chou et al. (Chou).

As to claims 1,21,22,23,24,25, Chou discloses a computerized method for managing a plurality of mobile assets (title) comprising: collecting data from each of a plurality of assets via a transmitter (fig 1), providing a set of rules comprising relationships for the processing the data to determine the wear (fig 3), processing the data according to the rules to develop historical data (in data repository 203) and distributing the information via a global information network (abstract, lines 10-12) .

As to claim 20, Chou discloses using the data to develop a fault prediction (col 6, lines 6-8, "potential of a fault").

As to claim 26, Chou discloses a cost-benefit evaluation for a proposed future plan for use (col 4, lines 50-53 would inherently have such a cost-benefit evaluation as

telling the user to "stop now" would denote that to keep driving would cost more as the repairs would be more extensive).

As to claim 30, Chou discloses knowing warranty information (col 5, line 36).

As to claims 2,27, the data is enhanced with environmental information collected during the actual usage (col 5, lines 53-60).

As to claim 3, Chou discloses determining a service recommendation (200, as best seen in fig 1).

As to claim 4, the service recommendation is communicated to the operator of the vehicle (abstract lines 10-12).

As to claim 5, Chou recommends the service center (175 or "dealer" as best seen in fig 1).

As to claim 6, the roadside assistance would be dispatched to where the vehicle is, thereby meeting the limitations as claimed.

As to claim 10, Chou discloses collecting data regarding service functions (col 4, lines 30-36).

As to claims 28, 29, Chou discloses basing decisions on previous services (col 5, lines 34-39).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-9,11, 15-19 and 31, 37-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou.

Chou discloses a system and method as discussed above.

As to claim 7, it would have been obvious to one of ordinary skill in the art to base the suggested service on whether the service center is part of a chain to ensure the vehicle is serviced at an appropriate service center (such as suggesting that a Ford owner take the car to a Ford dealer and not a Chevrolet dealer).

As to claims 8,11, it would have been obvious to one of ordinary skill in the art to use a web page as Chou discloses using the Internet and this would allow the customer to check the information at the customer's time instead of at the help-desk's time.

As to claim 9, it would have been obvious to use cargo as a parameter as loading a vehicle with extra weight is well known to cause more wear.

As to claims 15,16,17, it would have been obvious to one of ordinary skill in the art to use the system and method as disclosed by Chou to ensure compliance with regulatory compliance as Chou teaches it as a good way to track vehicles and many commercial vehicles are required to comply with regulations.

As to claim 18, it would be obvious to notify the customer of promotions as Chou discloses notifying the customer of other services (col 10, lines 1-11, such as "concierge services").

As to claim 19, it would have been obvious to one of ordinary skill in the art to use the system and method as disclosed by Chou to ensure compliance with regulatory compliance as Chou teaches it as a good way to track vehicles and many commercial vehicles are required to comply with regulations.

As to claim 31, it is well known in the art to void a warranty based on compliance with service recommendations (for instance, if you have never changed, checked or added oil as per service recommendations and the engine is ruined, a warranty could be voided.).

As to claims 37-47, Chou discloses a system and method as discussed above. Chou does not, however, teach using it for locomotives. It would have been obvious to one of ordinary skill in the art to use the system and method as taught by Chou for locomotives as locomotives also require periodic maintenance and further, can break down.

(10) Response to Argument

As to arguments in relation to claim 1, the operational modes and level of wear, are "vehicle faults", as discussed in previous office actions. Fault monitoring, inherently and necessarily, monitors "wear". Any part with a fault is shown to have "wear". Operational modes, as they are not described in the claims. Further, as noted by appellant, page 12, lines 20-32 disclose examples of what "operational modes" could be, but, as not noted by appellant, these examples are not exhaustive. Page 12, lines 25-30, "For other vehicles, such as trucks, other sets of parameters may... In one exemplary embodiment, data that may be monitored... The monitored data may be used...". As can be clearly seen, the list is not closed but open and contains only examples that "may be" used. Storing fault data is historical data as the data is the history of the vehicle (its faults).

As to arguments in relation to claim 2, environmental data is a broad term and could be read in many ways. The way the examiner read it is that "case-based" reasoning meets the limitation as claimed as it is making the diagnosis on the basis of one case (note that the previous monitoring is "model-based" which would imply that how a particular vehicle is treated is not checked as they are checking a particular model and not a specific one).

As to arguments in relation to claim 20, fault data is historical data on use (col 6, lines 6-8). This is borne out by the further description in col 6, lines 20-33. Further, the "health report" of col 6, lines 10-14, would be "historical data based on use".

As to arguments in relation to claim 21, the "operational modes" are associated with a distinct level of wear (bad or good). Thus meeting the limitations as claimed.

As to arguments in relation to claim 22, the "operational modes" are associated with a distinct level of wear (bad or good). Thus meeting the limitations as claimed. The fault data is historical data as it is from the history of the device monitored, thereby meeting the limitations as claimed.

As to arguments in relation to claim 23, the way the examiner read it is that "case-based" reasoning meets the limitation as claimed as it is making the diagnosis on the basis of one case (note that the previous monitoring is "model-based" which would imply that how a particular vehicle is treated is not checked as they are checking a particular model and not a specific one).

As to arguments in relation to claim 24, the way the examiner read it is that "case-based" reasoning meets the limitation as claimed as it is making the diagnosis on

the basis of one case (note that the previous monitoring is "model-based" which would imply that how a particular vehicle is treated is not checked as they are checking a particular model and not a specific one). Further, noting that a part is bad is a distinct level of wear.

As to arguments in relation to claim 25, storing historical data is inherently and necessarily "developing historical information regarding actual usage", as the data is from the history of the device and further, is from actual usage (when and for how long).

As to arguments in relation to claim 26, as the device monitors faults during the history of the device, the "operational modes" would inherently and necessarily be indicative of "a respective state of health" as faults are indicative of a state of health (bad part=bad health, good part=good health).

As to arguments in relation to claim 30, (and indeed, to all claims) while, as in other cases, Chou discloses something slightly different from that described as exemplary in the specification, neither the specification nor the claims specifically limit the claimed invention to only those, exact examples. Therefore, the examiner must give all limitations their broadest possible meaning as that broadest possible meaning determine the scope of the claims. As to arguments in relation to "warranty information", Chou discloses correlating this with the other information in the database (col 5, line 36). The examiner will further note that Chou specifically mentions "failure mode data", "history", "service information" and more here, thereby further discloses "historical data" and "operational mode".


As appellant does not list other claims in the "Summary of Claimed Subject Matter", arguments in relation to other claims will not be either considered or responded to.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

MF 

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